

## **VIRGINIA:**

### **BEFORE THE VIRGINIA GAS AND OIL BOARD**

IN RE: Appeal of Virginia Division of Gas and Oil Director's Decisions in IFFC 11499 (herein "Appeal") comprised of preliminary findings entered on October 27, 1999 and thereafter supplemented by final decision entered on January 28, 2000 (hereinafter collectively the "Decision") in the matter of Terrance L. Hall (herein "Hall") vs. Pocahontas Gas Partnership (herein "PGP"), Applications for a Permits for Coalbed Methane Gas Operations #4096 for Proposed Well CBM-R51 with pipeline (herein "R51 Operations") and #4098 for Proposed Well CBM-R50 with pipeline (herein "R50 Operations"), both located in the Garden Magisterial District, Jewell Ridge Quadrangle, Buchanan County, Virginia, **VGOB Docket No: 00-0321-0787**

1. Hearing Date: The Appeal came on for hearing before the Virginia Gas and Oil Board (herein "Board") on the 21st day of March 2000 upon Hall's Petitions for Appeal of the Decision as it pertains to the R51 Operations and the R50 Operations.

2. Appearances: Hall was represented by James R. Henderson IV of the firm Henderson and De Courcy, P.C.; PGP was represented by Mark Swartz of the firm Swartz and Stump; B. R. Wilson, its Director, appeared on behalf of the Virginia Division of Gas and Oil (herein "DGO"); and Sandra B. Riggs, Assistant Attorney General, was present to advise the Board.

3. Jurisdiction: Pursuant to Va. Code § 45.1-361.36 the Board finds that it has jurisdiction over the subject matter.

4. History of Proceedings:

- a. On August 25, 1999, DGO received applications from PGP for the R51 Operations and the R50 Operations. Hall received notice of these permit applications on August 21, 1999, and pursuant to Va. Code § 45.1-361.35.B., Hall filed surface-owner objections to said applications on September 3, 1999.
- b. Pursuant to Va. Code § 45.1-361.35.H., IFFC 11499 was convened by the Director of DGO (herein "Director") on September 28, 1999 to hear Hall's surface-owner objections.
- c. The Director issued his preliminary decision in this matter on October 27, 1999 wherein he held in abeyance his final decision with respect to Applications #4096 and #4098 until November 15, 1999 to afford PGP and Hall an opportunity to meet and negotiate reasonable alternative sites for the R51 Operations and for the R50 Operations.
- d. On or about November 12, 1999 and November 15, 1999, the DGO received telephone calls in behalf of PGP and Hall, respectively, which lead the Director to believe that said parties had agreed to reasonable alternative sites for the R50 and R51 Operations thereby resolving Hall's objections and satisfying requirements of Va. Code § 45.1-361.35.B.4.
- e. On November 24, 1999, the DGO received from PGP applications to revise the pending R50 and R51 permit applications (herein "Revised Permit Applications") to relocate the proposed sites for each (herein "Revised Location(s)").
- f. On December 8, 1999, DGO received from Hall surface-owner objections to the Revised Permit Applications stating:

- (1) *The applicant, Pocahontas Gas Partnership, does not have any contractual or ownership right to the surface estate of the Lavoy Hall, et al. Tract sufficient to support the proposed application. Terrance L. Hall is one of the owners of this tract. The application identifies this tract as the site of the proposed well. Hall objects because the applicant does not possess a right to so use the Lavoy Hall, et al. Tract. Earlier this year Pocahontas Gas Partnership negotiated with the owners of this tract in order to lease drilling sites but this lease was not concluded or executed. Code of Virginia, 1950, as amended, Section 45.1-361.29 requires that the applicant certify that it "has the right to conduct the operations as set forth in the application and operations plan." The applicant does not have the right to install gas wells or gas pipe lines, either on the property generally, or in the alternative, on those portions cleared and reserved for the owners' use. The applicant likewise does not have the right to construct road in connection with gas wells or gas pipelines.*
  - (2) *The applicant propose to grade land and build both a well and access road and pipeline, all of which will adversely affect the value of the property and which will unreasonably infringe on the surface owners' use of the property. While the location of the well site is less objectionable than the previous proposal, it remains objectionable, as does the proposed gas pipeline system that will accompany it.*
  - (3) *The application purports to show the access road for well -R51 connecting to an existing roadway as its far end from the state highway. The existing roadway so shown does not exist. The construction of such roadway would unreasonably impair both the present and the future use of the property.*
- g. Based on Hall's objections to the Revised Permit Applications, and due to the apparent failure of Hall and PGP to reach an agreement to reasonable alternative sites for the R51 Operations and R50 Operations within the deadline established in the Director's October 27, 1999 Decision, the Director scheduled the continuation of IFFC 11499 for December 14, 1999 to hear Hall's objections to the Revised Permit Applications.
  - h. Mr. Hall advised DGO that due to a death in his wife's family, he requested a continuance of IFFC 11499 scheduled for December 14, 1999. Hall's request for continuance was granted by the Director, IFFC 11499 was rescheduled for January 25, 2000, and thereafter on January 28, 2000 the Director issued his final decision with respect to IFFC 11499 and Hall's objections to the Revised Permit Applications.
  - i. On January 31, 2000 the Director issued to PGP Permit No. 4453 for the R50 Operations and Permit No. 4454 for the R51 Operations.
  - j. In accordance with Va. Code § 45.1-361.36, on February 4, 2000 Hall filed with the Director his Petition for Appeal of IFFC 11499 and the decision rendered therefrom dated January 28, 2000, and to the extent applicable the decision of the Director with respect to the R51 Operations and the R50 Operations entered on October 27, 1999.
5. Findings of Fact: To the extent they address the R50 Operations and the R51 Operations, the Board adopts in toto the findings-of-fact recited by the Director in his preliminary decision entered October 27, 1999 and they are incorporated herein by reference. Additionally, the Board adopts in toto the findings-of-fact recited by the Director in his final decision entered January 28, 2000 and they are incorporated herein by reference. Additionally, the Board finds:
    - (a) The R51 and R50 coalbed methane gas drilling units are 80-acre square units created, pursuant to Va. Code § 45.1-361.20, by: (1) Oil and Gas Conservation (OGCB) Order 3-90 dated May 18, 1990, as amended by orders issued in Docket Nos. VGOB 93-0216-0325 and VGOB 93-0316-0348, establishing the Oakwood Coalbed Methane Gas Field I governing the production of coalbed methane gas from frac wells (herein "Oakwood I Field Rules"), and (2) VGOB Order 91-1119-0162 effective as of December 17, 1992, as amended by orders issued in VGOB Docket



Nos. 93-0216-0336, 93-0316-0348 and 93-0316-0349 establishing the Oakwood Coalbed Methane Gas Field II governing the production of coalbed methane gas from short holes, unsealed/active gobs, wells located in a longwall panel, and any additional wells (herein "Oakwood II Field Rules").

- (b) The Oakwood I Field Rules and the Oakwood II Field Rules provide, among other things, that any coalbed methane well located in a drilling unit is to be drilled a minimum of 300 feet from the boundary of the unit. The drilling window for the R50 drilling unit and for the R51 drilling unit within which the wells may be drilled constitute approximately 36.839 acres in each unit, and said drilling units and their respective drilling windows are shown on the plats attached hereto as Exhibits A and B, respectively.
  - (c) Pursuant to Va. Code §§ 45.1-361.21 and 45.1-361.22, on December 12, 1999 in VGOB Docket No. 99-1019-0755 the Board pooled the interests of all the owners and claimants of coalbed methane gas within the R50 drilling unit, and that order was filed with the Clerk of the Circuit Court of Buchanan County at Deed Book 500, Page 015 on December 22, 1999 (herein "R50 Pooling Order").
  - (d) Pursuant to Va. Code § 45.1-361.21 and 45.1-361.22, on April 27, 2000 in VGOB Docket No. 00-0321-0783 the Board pooled the interests of all the owners and claimants of coalbed methane gas within the R51 drilling unit, and that order was filed with the Clerk of the Circuit Court of Buchanan County at Deed Book 506, Pages 781-995 on May 3, 2000 (herein "R51 Pooling Order").
  - (e) The Revised Location of the R50 Operations is shown on the Plat of the R50 drilling unit attached hereto as Exhibit A, and on the topographical Location Map attached hereto as Exhibit C. According to the plat of the R50 drilling unit, the surface tracts within the drilling window are owned by Lavoy Edward Hall and Terrance Lynn Hall, Homer Keen, Daniel Gilbert, and Jason P. Gilbert. Tract 2A on the Plat is the surface tract owned by Hall and his brother upon which the Revised Location for the R50 drilling unit is proposed to be constructed. That portion of Hall's surface estate lying within the R50 drilling window comprises in excess of 60% of said drilling window.
  - (f) The Revised Location of the R51 Operations is shown on the Plat of the R51 drilling unit attached hereto as Exhibit B, and on the topographical Location Map attached hereto as Exhibit C. According to the attached plat of the R51 drilling unit, the surface tracts within the drilling window of the R51 unit are owned by Lavoy Edward Hall and Terrance Lynn Hall, Ronald Reed, Leshia Reed, Monroe Greeley, and Ellis Byrd. That portion of Tract #2A lying west of Route 621 is the Hall surface upon which the Revised Location for the R51 drilling unit is proposed to be constructed. Hall's surface estate in those portions of Tracts 1 and 2A lying within the R51 drilling window comprises 100% of the surface of the drilling window lying west of Route 621 and in excess of 40% of the entire drilling window.
6. Controlling Law: The provisions of the "Controlling Law" section of the Director's preliminary decision dated October 27, 1999 are incorporated herein by reference. Likewise, the "Controlling Law" section of the final decision entered by the Director on January 28, 2000 is incorporated herein by reference.
7. Decision: With respect to Hall's objections to the original Permit Application and to the Revised Permit Application for the R51 and R50 Operations, the Board upholds the Director's preliminary decision dated October 27, 1999 and the board upholds the Director's final decision entered January 28, 2000 and in doing so finds as follows:
- a. **Concerning Hall's Objection that the Soil Erosion and Sediment Control Plan Proposed for the R51 and R50 Operations Are Not Adequate or Not Effective:** Pursuant to Va. Code § 45.1-361.35.B.1., Hall objected to the original Permit Applications on the grounds that "the soil erosion and sediment control plan was not adequate or not effective". The Director found that Hall presented no evidence in support of this objection, nor did Hall identify any specific problems to demonstrate any deficiency in the erosion and sediment control plan submitted for the R51 and

R50 Operations. In his objection to the Revised Permit Applications and in his Petition for Appeal of the Decision and the Board's hearing of same, Hall did not address the adequacy of the soil erosion and sediment control plan for the R51 or the R50 Operations. Soil erosion and sediment control are major components of the permit requirements and an on-going responsibility of the permit holder subject to enforcement by DGO. The Board upholds the Director's decision as it pertains to this objection and finds that Hall's objections to the soil erosion and sediment control plans for the R51 and R50 Operations are without merit and denies same.

- b. **Concerning Hall's Objection that the Water Protection String Proposed for the R51 and R50 Operations Are Not Sufficient to Protect Fresh Water-Bearing Strata:** Pursuant to Va. Code § 45.1-361.B.2., Hall alleged that measures in addition to the requirement for a well's water-protection string provided for in the original permit applications for the R51 and R50 operations were necessary to protect fresh water-bearing strata. At the IFFC 11499, Hall expressed concern to the Director that water to be used during drilling operations is inferior to that which exists in aquifers on his property, and that use of that water could cause contamination of his water. Drilling water usage is governed by § 4 VAC 25-150-340.B of the Virginia Gas and Oil Regulation which, in abbreviated form, requires the operator to test any groundwater sources within 500 feet of the proposed well site, and to use water for drilling which is of equal or better quality until the water protection casing is set. If no groundwater sources exist within the prescribed 500 feet, the operator may use water meeting parameters listed in the Department of Environmental Quality's "Water Quality Criteria for Groundwater" (9 VAC 25-260-230 et seq.). The operator is responsible for locating and analyzing any groundwater sources. The analysis and selection of drilling water source can be done any time prior to drilling. Hall objected to the issuance of a variance regarding the method of setting the water protection casing. The requested variance deals solely with cement composition, strength and hardening times, and has no bearing on water protection. The Director found that at the IFFC 11499, Hall presented no evidence to indicate lack of compliance by PGP with the Regulation or inadequacy of the water protection casing; therefore, the Director denied Hall's objection with respect to same. In his objections to the Revised Permit Applications and in his Petition for Appeal of the Decision and the Board's hearing of same, Hall did not address this objection. The Board upholds the Director's Decision as it pertains to this objection and finds that Hall's objections to the water protection string proposed for the R51 and R50 Operations are without merit and denies same.

- c. **Concerning Hall's Objection that Construction of the R51 and R50 Operations, as Proposed in the Revised Permit Application, Will Constitute An Unreasonable Infringement on Hall's Use of the Surface:** Pursuant to Va. Code § 45.1-361.B.4., a surface owner may object to a coalbed methane well and/or well pipeline application on the basis that the proposed location of the coalbed methane well or coalbed methane well pipeline will unreasonably infringe on said surface owner's use of the surface, "*provided, however, that a reasonable alternative site is available within the unit and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest.*" Hall's objections to the locations of the R51 and R50 Operations locations proposed in the original Permit Application (herein "Original Locations") have been rendered moot by PGP's filing of the Revised Permit Application which relocated said sites; however, as set forth in Paragraph 3(f) above, Hall also filed objections to the R51 and R50 Revised Permit Applications (herein "Revised Locations") alleging that they likewise constitute an unreasonable infringement on his use of the surface. With respect to Hall's objection to the Revised Locations for the R51 and R50 Operations, the Board finds as follows:

- (1) Given the fact that Hall owns the majority of the surface within the drilling windows of both the R50 and the R51 drilling units, the Board finds that the Revised Locations for the R50 and R51 operations do not constitute any greater infringement on Hall's use of his surface than they would to any other surface owner within the unit if said operations were to be located on their surface, and in fact, the Revised Locations infringe upon a smaller percentage of Hall's surface than they would the surface of any other surface owner within the drilling window.



- (2) While the Board agrees with the Director that the Original Locations would occupy more of Hall's flatland than was reasonable, the Board finds that the Revised Locations for the R51 and R50 Operations, while more expensive for PGP to construct, constitute reasonable alternative sites for said operations, are less intrusive on Hall's flatland, have less impact upon Hall's current use of his surface and on potential uses that might make of his property, and are sites that Hall admits are less objectionable to him than the Original Locations.
- (3) PGP's proposed operations for the R50 and R51 drilling units are reasonably necessary to produce the coalbed methane gas from said drilling units.
- (4) The Revised Locations do not constitute an unreasonable infringement upon Hall's use of his surface within either the R50 or the R51 drilling units.

**d. Hall's Testimony that While the Revised Locations are Less Objectionable to Him than the Original Locations, He Still Objects to Any Gas Operations Being Located on His Surface (Tracts 1 and 2A) Based on His Challenge of the notarized certification given by PGP in its permit application that it has the right to conduct the operations set forth in its permit applications for the R50 and R51 Operations on Tracts 1 or 2A.**

- (1) To meet the requirements of Va. Code § 45.1-361.29.E., as part of its permit applications for the R50 and for the R51 Operations, PGP filed its notarized certification for each unit stating that PGP has the right to conduct the operations as set forth in the application and operations plan, namely that PGP has the right to conduct operations at the Revised Locations on Tract 2A.
- (2) At the IFFC 11499 PGP testified that its right to conduct the R50 and R51 Operations at the proposed locations were derived through a 1903 severance deed wherein Riley Altizer and Mary L. Altizer, as grantors, severed certain specified minerals from the surface of what is now Tract 2A of Units R50 and R51 (see deed attached hereto as Exhibit D).
- (3) Mr. Hall takes the position that the severance deed did not sever the gas and did not expressly grant to the severed mineral owners the right to enter upon the surface to remove same. Further, It is Mr. Hall's position that unless and until such time as he and/or his co-tenant(s) reach a written agreement with PGP concerning PGP's purchase of the required rights of entry, PGP has no right to conduct its proposed R50 and R50 Operations on his surface estate as proposed in the application and operations plans.
- (4) The permitting and enforcement requirements of Article 3 of the Act are the statutory mechanism through which the Director carries out the duties and responsibilities required of him in Va. Code § 45.1-361.27, i.e., to ensure the safe and efficient development and production of the gas by preventing pollution, protecting against off-site disturbances, ensuring the restoration of disturbed sites, preventing the escape of the gas resource, providing for safety, controlling wastes, providing for the accurate measure of production and delivery to the first point of sale, and protecting the public safety and general welfare.
- (5) The issues raised by this objection constitute a title dispute between the surface owner and the gas operator, which this Board does not have the power or authority to decide. It should be noted, however, that the permits issued by the Director for the R50 and R51 Operations are contingent upon the certification by PGP that it already has the right to conduct the operations it proposes in its applications, and the issuance of said permits does not expressly or impliedly expand or grant to PGP the required right to conduct the proposed operations. The Virginia Gas and Oil Act, Va. Code § 45.1-361.1 et seq. (herein "Act"), does not vest in the Director or the Board the power or authority to resolve title disputes between the surface owner and the mineral owner, but rather leaves the consideration of these rights flowing from contracts of sale to be addressed by a common law court whose expertise extends to the analysis of chains of title and the limitations therein.
- (6) Once a permit applicant certifies to the Director that it has the right to conduct the operations proposed in its permit application, as PGP has done here, then upon objection by a surface owner to the location of the proposed operations, the Act does vest in the Director, and in the Board on appeal of the Director's decision on said objection, the authority to: (1) determine

whether the use proposed by the permit application is reasonable, and (2) require that the operations be relocated to a reasonable alternative site if doing so will not materially impair any right contained in an agreement, valid at the time of the surface owner's objection, between the surface owner and the operator or their predecessors.

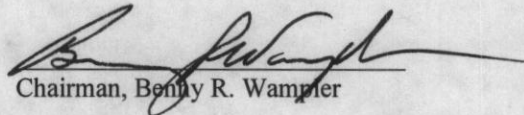
- (7) In reviewing the Director's decision with respect to the determinations required by Va. Code 45.1-361.35.B.4., the Board takes notice of some basic principals in Virginia law:
  - (a) In Warren v. Clinchfield Coal Corp., 166 Va. 524, 186 S.E. 20 (1936) the Virginia Supreme Court held that a conveyance of "... other minerals" includes oil and gas unless a contrary meaning or less comprehensive meaning is shown.
  - (b) Easements may be created by express grant or express reservation, by implication, or by prescription. Mineral interests can be severed from the remainder of the interests in land. Once severed, the mineral estate becomes the dominant estate, and the surface estate becomes the servient estate.
  - (c) Virginia common law on implied easements follows the "Reasonable Use Doctrine" which grants by law to the mineral owner such implied surface easement as are reasonably necessary for exploration, development and production of the minerals. Under this doctrine, the mineral owner is not required to obtain contractual permission from the surface owner because his ownership of the mineral rights includes, by common law, the right to reasonably necessary surface use so that the purpose of his mineral ownership, development, can occur. See Smith v. Pocahontas Fuel Co., 177 VA. 267, 13 S.E. 2d 301 (1941); Hagan Co. v. Norton Coal Co., 137 VA. 140, 119 S.E.2d 153 (1923).
  - (d) Some jurisdictions follow the "Accommodation Doctrine" wherein the mineral owner must propose a method, which will cause the least interference, even if it costs more.
- (8) In determining whether the Virginia Gas and Oil Act alters Virginia's common law on implied easements, the Board finds that the Act, in Va. Code § 45.1-361.35.B.4, the Reasonable Use Doctrine is modified somewhat in the case of a coalbed methane gas operation if a surface owner objects to a permit application on the grounds that the location of said operations will unreasonably infringe on the use of his surface. While the Act does not go as far as the Accommodation Doctrine by requiring that the Operator propose a method which will cause the least interference, it does require that the gas operator find a reasonable alternative site within the unit. In essence, the Act requires that the interest of the surface owner be balanced against the interest of the gas operator, and that a reasonable alternative site be established. The Board finds that the Revised Locations for the R50 and R51 Operations constitute reasonable alternative sites.
- (9) While construction of the operations at the Revised Locations will result in additional costs to PGP, by revising its permit application PGP has voluntarily agreed to such relocation and has not alleged as part of this appeal that doing so has materially impaired any right expressed or implied in the severance deed upon which it relies for its right to conduct operations.
- (10) To give PGP and Hall an opportunity to negotiate further and/or to seek a legal determination of their respective rights under the severance deed before the appropriate court, at the hearing of this appeal the Board directed the Director to place a 60-day stay on Permit #4453 and 4454 and to send notice to the parties with respect to same. On March 27, 2000 the Director send notice to PGP that the permits were stayed effective March 21, 2000 and expiring on May 22, 2000.

8. Appeals: Appeals of this Order are governed by the provisions of Va. Code 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate Circuit Court.

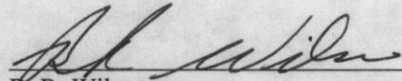
9. Effective Date: This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 16<sup>th</sup> day of May, 2000, by a majority of the Virginia Gas and Oil Board.



  
Chairman, Benny R. Wampler

DONE AND PERFORMED this 16<sup>th</sup> day of May, 2000, by Order of this Board.

  
B. R. Wilson  
Principal Executive to the Staff  
Virginia Gas and Oil Board

# REVISION

4,280'

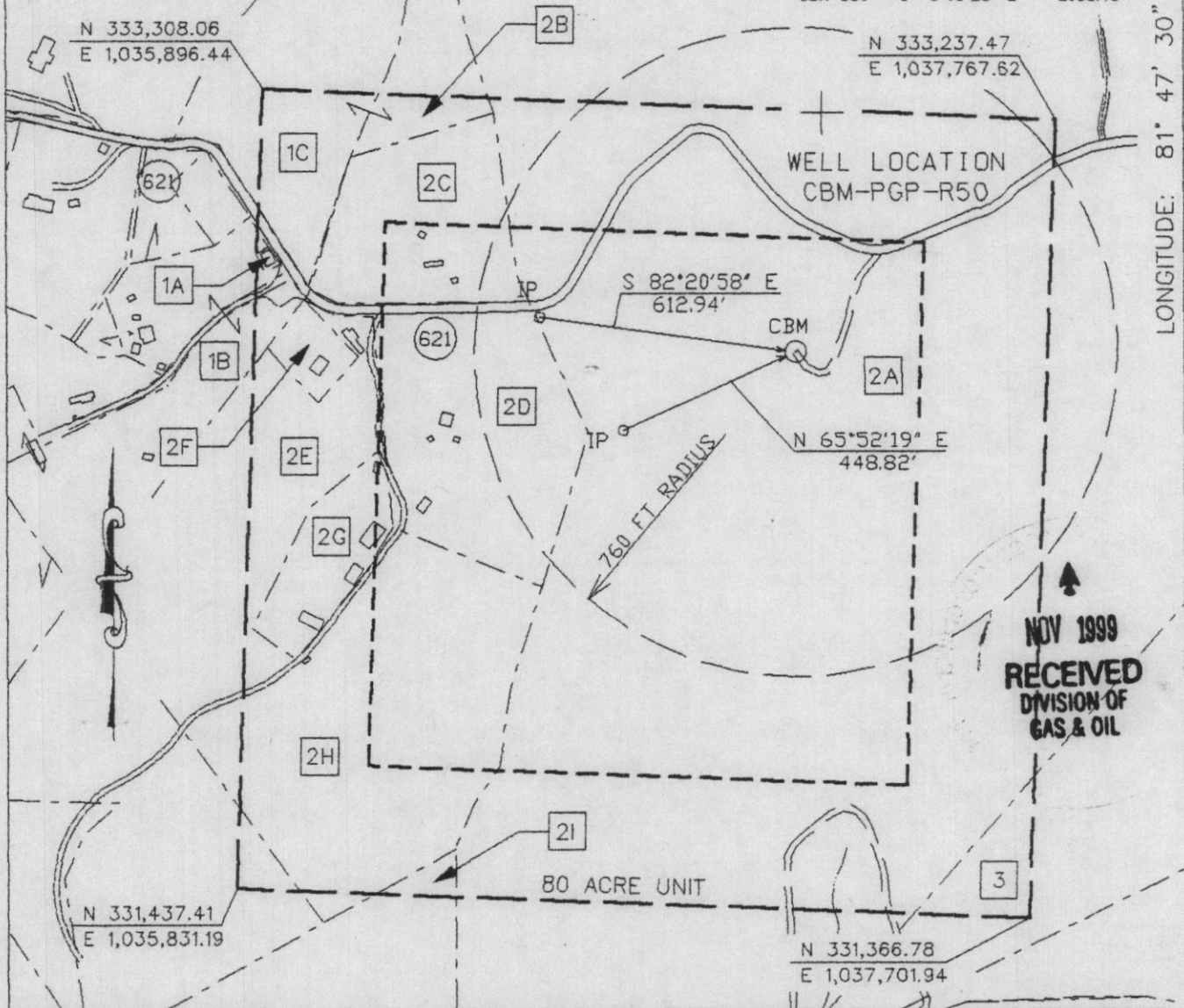
BEARING BASIS:  
VIRGINIA STATE PLANE - SOUTH ZONE - NAD'27  
PROPERTY LINES SHOWN WERE TAKEN FROM MAPS  
PROVIDED BY CONSOL Inc. AND WERE NOT SURVEYED.

LATITUDE: 37° 12' 30"

BEARING & DISTANCE TO OTHER WELLS  
WITHIN 2500'

CBM-Q50 N 10°03'30" W 2147.48'  
CBM-S50 S 5°03'26" E 2086.45'

LONGITUDE: 81° 47' 30"



NOV 1999  
RECEIVED  
DIVISION OF  
GAS & OIL

THE ACTUAL WELL LOCATION WILL BE WITHIN 10 FEET OF THE PROPOSED LOCATION ACCORDING TO 4 VAC 25-150-290 AND 45.1-361.30.

## WELL LOCATION PLAT

PGP R50PLAT  
CON15/33 - 9904/02

COMPANY POCAHONTAS GAS PARTNERSHIP WELL NAME OR NUMBER CBM-PGP-R50  
TRACT NUMBER POCAHONTAS MINING TR 22 QUADRANGLE JEWELL RIDGE  
DISTRICT: GARDEN

WELL COORDINATES (VIRGINIA STATE PLANE): STATE PLANE N 332,691.73 E 1,037,153.42

ELEVATION: 2876.06' METHOD USED TO DETERMINE ELEVATION: BY TRIG. LEVELS FROM CONSOL INC BM'S  
COUNTY BUCHANAN Scale: 1" = 400' Date 11/17/99

THIS PLAT IS A NEW PLAT       ; AN UPDATED PLAT X; OR A FINAL LOCATION PLAT       

+ Denotes the location of a well on United States Topographic Maps, scale 1 to 24,000, latitude and longitude lines being represented by border lines as shown (optional).

*Claude D. Mayes*



# POCAHONTAS GAS PARTNERSHIP

## UNIT R-50

### Tract Identifications

- 1A. James M. McGuire Trust - Coal, ½ Oil & Gas  
Coal Lessees  
Reserve Coal Properties - Below drainage coal Lessee  
Jewell Ridge Coal Corp.- Jawbone and Tiller Seams  
Pocahontas Gas Partnership - ½ Oil & Gas & Gas Leased  
Pocahontas Gas Partnership - CBM Leased  
Trustees of Nonsectarian Church - Surface, ½ Oil & Gas  
0.04 acres 0.0500%
- 1B. James M. McGuire Trust - Coal, ½ Oil & Gas  
Coal Lessees  
Reserve Coal Properties - Below drainage coal Lessee  
Jewell Ridge Coal Corp.- Jawbone and Tiller Seams  
Pocahontas Gas Partnership - ½ Oil & Gas & Gas Leased  
Pocahontas Gas Partnership - CBM Leased  
Virginia Harman et al. - Surface, ½ Oil & Gas  
0.39acres 0.4875%
- 1C. James M. McGuire Trust - Coal, ½ Oil & Gas  
Coal Lessees  
Reserve Coal Properties - Below drainage coal Lessee  
Jewell Ridge Coal Corp.- Jawbone and Tiller Seams  
Pocahontas Gas Partnership - ½ Oil & Gas & Gas Leased  
Pocahontas Gas Partnership - CBM Leased  
Freda A. Synder Et al - Surface, ½ Oil & Gas  
1.92 acres 2.4000%
2. Pocahontas Mining Company . Tr 22 - Coal, Oil & Gas  
Coal Lessees  
Reserve Coal Properties - P-3 Seam and 250'above  
Jewell Ridge Coal Corp.- Tiller Seam and above  
Pocahontas Gas Partnership - CBM Leased P-3 Seam and 250'above  
Pocahontas Gas Partnership - Oil & Gas Lessee  
Pocahontas Gas Partnership - CBM Lessee  
76.55 acres 95.6875%
- 2A. Lavoy Hall et al. - Surface  
2B. Freda A. Synder et al - Surface  
2C. Russell Brown - Surface  
2D. Homer Keen - Surface  
2E. Jason P. Gilbert et al. - Surface  
2F. Hubert Harman - Surface  
2G. Daniel Gilbert - Surface  
2H. Jason P. Gilbert et al. - Surface  
2I. Homer Keen - Surface

# **POCAHONTAS GAS PARTNERSHIP**

## **UNIT R-50**

### **Tract Identifications**

3. Pocahontas Mining Company . Tr 21 - Coal, Oil & Gas  
Coal Lessees  
Reserve Coal Properties - P-3 Seam and 250'above  
Jewell Ridge Coal Corp.- Tiller Seam and above  
Pocahontas Gas Partnership - CBM Leased P-3 Seam and 250'above  
Pocahontas Gas Partnership - Oil & Gas Lessee  
Pocahontas Gas Partnership - CBM Lessee  
Lavoy Hall et al. - Surface  
1.10 acres 1.3750%

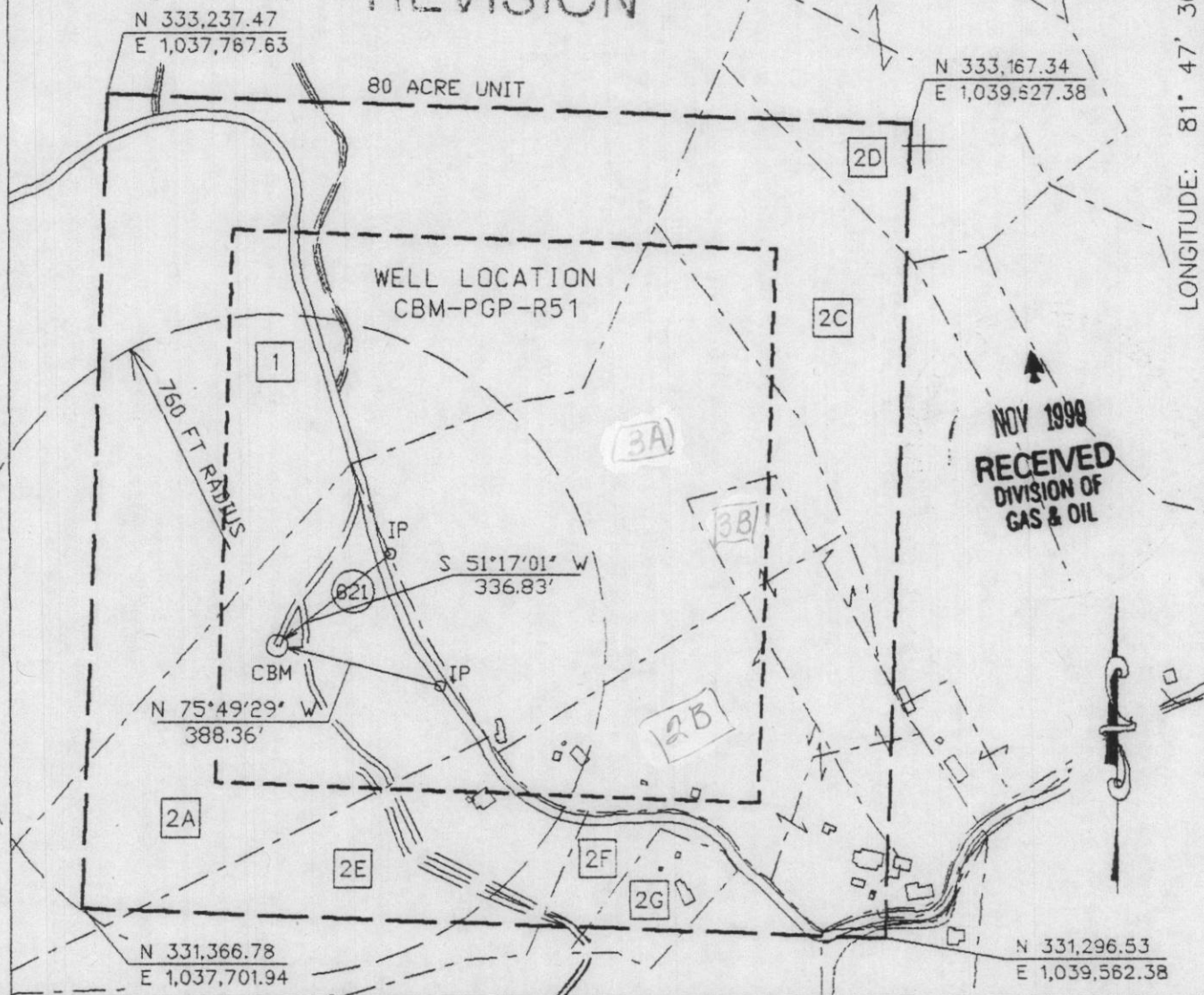


BEARING BASIS:  
VIRGINIA STATE PLANE - SOUTH ZONE - NAD'27  
PROPERTY LINES SHOWN WERE TAKEN FROM MAPS  
PROVIDED BY CONSOL Inc. AND WERE NOT SURVEYED.

LATITUDE: 37° 12' 30"

BEARING & DISTANCE TO OTHER WELLS  
WITHIN 2500'  
CBM-R50 N 54°15'15" W 1234.54'  
CBM-S50 S 31°28'05" W 1570.11'  
CBM-S51 S 1°20'15" W 2044.42'

REVISION



THE ACTUAL WELL LOCATION WILL BE WITHIN 10 FEET OF THE PROPOSED LOCATION ACCORDING TO 4 VAC 25-150-290 AND 45.1-361.30.

## WELL LOCATION PLAT

CON R51PLAT  
CON15/37 - 9702/07

COMPANY POCAHONTAS GAS PARTNERSHIP WELL NAME OR NUMBER CBM-PGP-R51  
TRACT NUMBER POCAHONTAS MINING TR 21 QUADRANGLE JEWELL RIDGE  
DISTRICT: GARDEN

WELL COORDINATES (VIRGINIA STATE PLANE): STATE PLANE N 331,970.52 E 1,038,155.39  
ELEVATION: 2819.19' METHOD USED TO DETERMINE ELEVATION: BY TRIG. LEVELS FROM CONSOL INC BM'S  
COUNTY BUCHANAN Scale: 1" = 400' Date 11/17/99  
THIS PLAT IS A NEW PLAT       ; AN UPDATED PLAT X; OR A FINAL LOCATION PLAT       

+ Denotes the location of a well on United States Topographic Maps, scale 1 to 24,000, latitude and longitude lines being represented by border lines as shown (optional).

*Claude D. Morgan*

10953

# POCAHONTAS GAS PARTNERSHIP

## UNIT R-51

### Tract Identifications

4096

1. Pocahontas Mining Company . Tr 22 - Coal, Oil & Gas  
Coal Lessees  
Reserve Coal Properties - P-3 Seam and 250' above  
Jewell Ridge Coal Corp.- Tiller Seam and above  
Pocahontas Gas Partnership - CBM Lessee  
Lavoy Edward Hall & Terrance Lynn Hall - Surface  
26.72 acres 33.4000%

2. Pocahontas Mining Company . Tr 21 - Coal, Oil & Gas  
Coal Lessees  
Reserve Coal Properties - P-3 Seam and 250' above  
Jewell Ridge Coal Corp.- Tiller Seam and above  
Pocahontas Gas Partnership - CBM Lessee  
53.28 acres 66.6000%

- 2A. Lavoy Edward Hall & Terrance Lynn Hall - Surface  
2B. Leshia Reed - Surface  
2C. Monroe Greeley - Surface  
2D. Mayrland Joyce - Surface  
2E. Ellis Byrd - Surface  
2F. Willard Reed - Surface  
2G. Larry Byrd - Surface

SEP 1999  
RECEIVED  
DIVISION OF  
GAS & OIL

Revision  
m2  
2/28/99

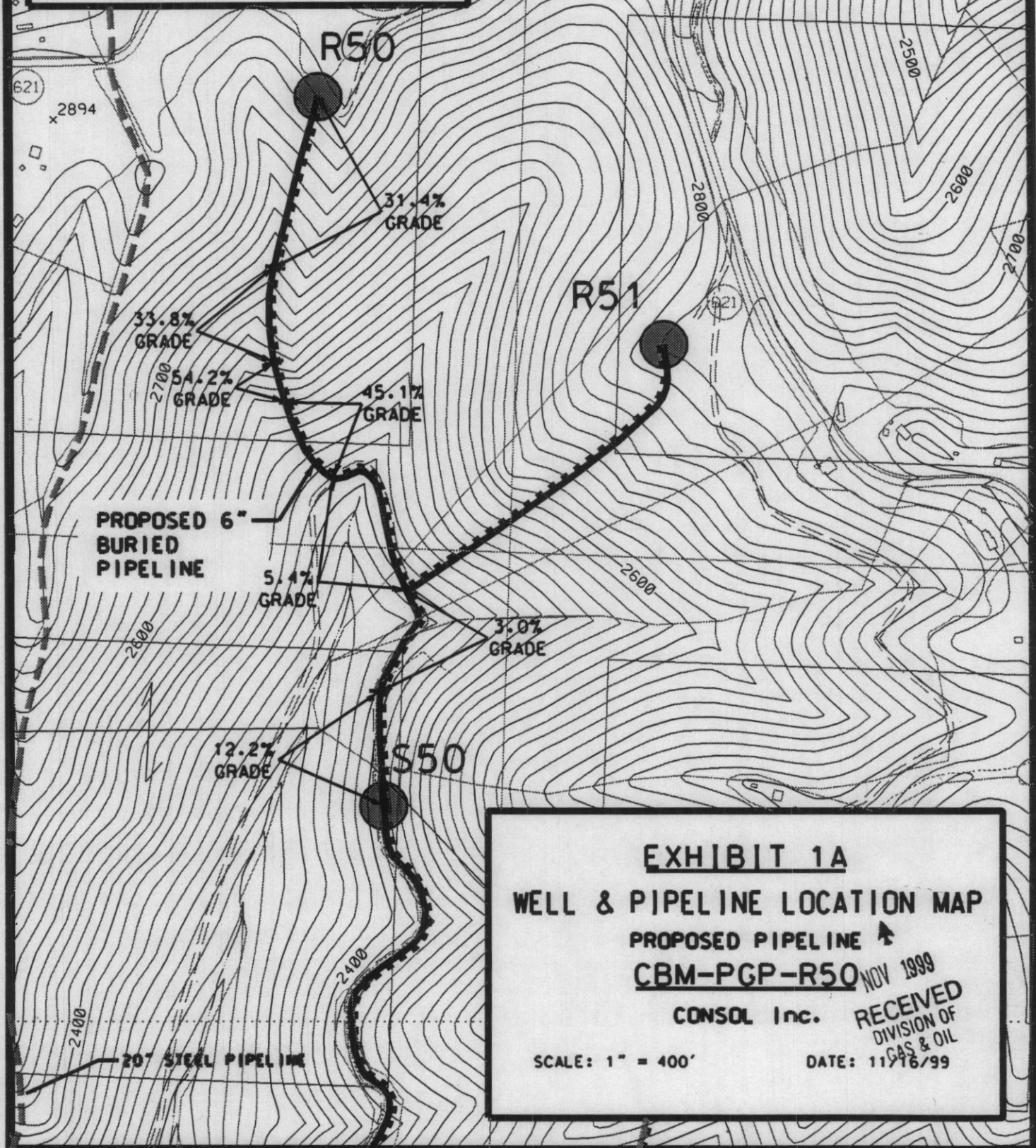


**NOTE:**

ALL E & S CONTROL PRACTICES UTILIZED SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH AND 4 VAC 25-150-260. NONERODIBLE MATERIAL SHALL BE USED FOR THE CONSTRUCTION OF CAUSEWAYS AND COFFERDAMS IN WITH STREAMS EROSION AND SEDIMENT CONTROL ACCORDING TO THE REFERENCED CODE.

**NOTE:**

STRAW BALES SHALL BE INSTALLED & MAINTAINED AT THE INLET & OUTLET OF ALL CULVERTS AND AT ALL DRAINAGE WINDOWS UNTIL THE DISTURBED AREA IS STABILIZED.



**EXHIBIT 1A**

**WELL & PIPELINE LOCATION MAP**

**PROPOSED PIPELINE**

**CBM-PCP-R50**

**CONSOL Inc.**

**SCALE: 1" = 400'**

**DATE: 11/16/99**

**NOV 1999  
RECEIVED  
DIVISION OF  
GAS & OIL**

## EXHIBIT 1

THIS DEED, made this the 5th day of May, 1903, between Riley Altizer, and Mary L. Altizer, his wife, of the County of Buchanan, State of Virginia, parties of the first part, and Thomas M. Righter, Trustee, of the County of Northumberland, State of Pennsylvania, party of the second part:

WITNESSETH:

THAT IN CONSIDERATION of Three Thousand, Two Hundred and Sixty-three Dollars and ninety cents, (\$3263.90.), paid by the said Thomas M. Righter, Trustee, to the said Riley Altizer and Mary L. Altizer, his wife, the said Riley Altizer and Mary L. Altizer, his wife, do grant unto the said Thomas M. Righter, Trustee, all the coal, minerals and metals, oil and timber, on and under two tracts of land hereinafter described, tract Number One (No.1) containing 100 acres, and tract Number Two (No.2.) containing 226.39 acres, both of which said tracts of land are situate on the Big Fork Ridge, on the Headwaters of Dismal Creek, in the County of Buchanan, in the State of Virginia.

TRACT NUMBER ONE.

Being a part of a 326.39 acre tract which is composed of a part of a tract of 33 acres patented to Joseph McGuire; a tract of 46 acres originally surveyed in the name of Elias Brown; a part of a tract of 112 acres, and a part of a tract of 558 acres, both patented in the name of James P. Brown, and a part of a tract of 10,000 acres patented in the name of Richard Smith; said tract Number One (No.1) herein conveyed which contains 100 acres is bounded as follows:

BEGINNING AT a double birch at the mouth of the road hollow on the south bank of Laurel Creek, a corner to a tract of land owned by Mary F. Joyce, thence North 33°59' East 1,786.9 feet to a stake, the southwest corner of a tract of 226.39 acres, of which the said Riley Altizer has reserved the surface, thence with a line of the same South 89°27' East 2,682.4 feet to a



-2-

white oak near a branch, thence with said branch South 37°00' West 148 feet, South 17°30' West 241.9 feet, South 24°00' West 169.6 feet, South 14°00' East 89 feet, South 11°00' West 91.2 feet, South 26°00' West 210.6 feet, South 14°00' West 132.8 feet, South 31°30' West 97.3 feet, South 4°30' West 270.2 feet, South 23°30' West 127.6 feet, South 48°30' West 150.3 feet, to a sugar and black oak, corner of William Smith, thence South 77°30' East 305.2 feet to a stake, North 73°03' West 198.4 feet to a beech, a corner to Mary Keen, (T. E. Menckle), South 85°00' West 152.9 feet to two birches on the north bank of Laurel Creek, North 69°10' West 574 feet to a stake, North 89°00' West 248.8 feet to two sugar stumps, South 57°00' West 185.3 feet to a poplar and a beech on the north bank of Laurel Creek, South 83°00' West 330 feet to a stake on the bank of Laurel, thence down said creek North 59°30' West 214.3 feet, South 88°00' West 443.5 feet, North 63°30' West 194.7 feet, South 69°45' West 327.2 feet, South 89°30' West 78.2 feet, to the beginning; containing One Hundred Acres, (100. A.).

TRACT NUMBER TWO.

IS COMPOSED of a part of a 33 acre tract patented in the name of Joseph McGuire, and a part of a 46 acre tract originally surveyed in the name of Elias Brown, and a part of a 112 acre tract and a part of a 558 acre tract, both patented in the name of James F. Brown; tract Number Two (No.2) containing 226.39 acres, is bounded as follows:

BEGINNING at a white oak near a branch, a corner to tract owned by G. W. Brown, and corner to Tract Number One above described; thence with the northern boundary line of said tract Number One, North 89°27' West 2682.4 feet to a stake, thence leaving said Tract Number One North 33°59' East 986.7 feet to a chestnut near the top of a spur a corner to the land of Joseph Brown, North 41°27' East 1,516.1 feet to

-3-

poplar in the head of a hollow, North 14°00' East 356.2 feet to an ash in a hollow, North 24°30' East 121 feet to a hickory in a hollow, North 21°30' East 202.3 feet to a sugar tree stump in a hollow, North 7°00' East 156.9 feet to a sugar tree in a hollow, North 3°15' West 345.3 feet to a large poplar in the forks of a branch in sugar camp hollow, North 32°45' East 252.9 feet to a stake, North 44°45' East 249.8 feet to a stake by a branch near three marked lynns, South 88°22' East 3,161.7 feet to a stake a corner to a tract of 60 acres belonging to R. E. Griffiths, and with the same up a branch, South 50°17' East 117.3 feet, South 37°30' West 235 feet, South 29°00' West 364.4 feet, South 16°30' West 252.3 feet to two birches and a lynn, a corner to a tract owned by G. H. Brown, and with the same South 22°00' West 324.5 feet to a stake, South 24°30' West 303.1 feet to a stake, South 21°30' West 101.5 feet to a stake, 155.6 feet to a sugar on north bank of Lick Branch, South 65°51' West 603.9 feet to a black oak and locust on top of the ridge by the road, South 41°58' West 1,672.1 feet to three white walnuts on a branch, thence down said branch South 25°30' West 114.4 feet, South 22°30' West 123.8 feet, South 12°00' East 73.1 feet, to the beginning; containing Two Hundred and Twenty-six and thirty-nine one-hundredths acres, (226.39 A.).

RL. And the said Riley Altizer and Mary L. Altizer, his wife, further grant to the said Thomas M. Righter Trustee, the right to take the entire body or bodies of coal, minerals, metals, oil or timber herein conveyed, off through and under and over said lands, without leaving any support for the overlying strata, and without liability for any injury which may result from the breaking of said strata, and the right of mining and removing the said coal and other minerals and metals herein conveyed, and of ventilating and draining the mines by such openings, ways and structures as shall be necessary for



-4-

the safe, convenient and economical mining of said coal, minerals, metals, oil, and the further right of mining and transporting the coal, minerals and metals, off and from other lands, through and by means of the openings, ways and structures, upon and in the said lands as well as over same, also the right to take and use so much water and stone from said land as said mining purposes may require.

And the said Riley Altizer and Mary L. Altizer his wife, do covenant to and with the said Thomas M. Righter Trustee, as follows:

That they warrant generally the property hereby conveyed, and that same is free from encumbrances.

There is excepted and reserved from this conveyance 232 yellow poplar and 5 cucumber trees, from 24 inches in diameter and upwards, together with certain rights and privileges appurtenant thereto, as shown and set forth in a deed dated 5th day of October, 1889, which was executed by said Riley Altizer and Mary L. Altizer, to Chicago Lumber Company, and recorded in deed book H, page 154, in the Clerk's Office of the County Court of Buchanan County.

It is further understood and agreed that the said Riley Altizer has the right and privilege to clear 100 acres of the said 226.39 acres, and the use of coal and timber for domestic purposes.

WITNESS our hands and seals.

Riley Altizer (SEAL)  
Mary L. Altizer (SEAL)  
witness

VIRGINIA:

Buchanan County, to-wit:---

I, A. M. CHRISTIAN, a Notary Public, in and for the County of Buchanan, in the State of Virginia, hereby certify that Riley Altizer and Mary L. Altizer, his wife, whose

-5-

names are signed to the foregoing writing, bearing date the 5th day of May, 1903, this day personally appeared before me in my said County, and acknowledged the same.

Given under my hand this the 26 day of May, 1903.

A. M. Christain

Notary Public.

My Commission Expires Jan'y 18 1915

Form No. 315.

Virginia, County of Buchanan, to-wit:

In the Clerk's Office of the County Court of the County and State aforesaid, the 10th day of July 1903, the foregoing writing was presented and admitted to record, and together with the certificate of acknowledgment recorded in Deed Book X page 121.

Teste:

W. L. Dennis

Clerk.



7099 3400 0000 0000 2976 8484

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT**

(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
Here

Name (Please Print Clearly) (to be completed by mailer)

Street, Apt. No., or PO Box No.

City, State, ZIP+4

PS Form 3800, July 1999

See Reverse for Instructions

102595-99-M-1789

Domestic Return Receipt

PS Form 3811, July 1999

2. Article Number (Copy from service label)

7099 3400 0000 0000 2976 8484

Terrance L. Hall  
P.O. Box 11  
Jewell Ridge, VA 24622

1. Article Addressed to:

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

K. Joy Hall

C. Signature

X K. Joy Hall

D. Is delivery address different from item 1? ☐ Yes ☒ No

If YES, enter delivery address below:

Agent

Addressee

Yes ☐ No ☒

USPS

MAY 22 2000

B. Date of Delivery

Name and Address of Sender

Check type of mail:  
☐ Express  
☐ Registered  
☐ Insured  
☐ COD  
☐ Return Receipt (RR) for Merchandise  
☐ Certified  
☐ Int'l Rec. Del.  
☐ Del. Confirmation (DC)

If Registered Mail, check below:  
☐ Insured  
☐ Not Insured  
 Affix stamp here if issued as certificate of mailing, or for additional copies of this bill.  
 Postmark and Date of Receipt

Line	Article Number	Addressee Name, Street, and PO Address	Postage	Fee	Handling Charge	Actual Value (if Reg.)	Insured Value	Due Sender if COD	RR Fee	DC Fee	SC Fee	SH Fee	SD Fee	RD Fee	Remarks
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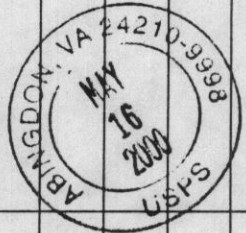
1 7099 3400 00009762 8217 Calvert Blvd (Victorian)

2 " " " 8453 Mark L. Lundy

3 " " " 8514 Red Creek

4 " " " 8484 Jeanne Hall

5 " " " 8438 James Henderson



5 Pieces

Total Number of Pieces Received at Post Office

Postmaster, Per (Name of receiving employee)

17 April 1999

Complete by Typewriter, Ink, or Ball Point Pen

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional postal insurance Domestic Mail Manual R900, S913, and S921 for limitations of coverage on insured and COD mail. See International Mail Manual for limitations of coverage on international mail. Special handling charges apply only to Standard Mail Standard Mail (B) parcels.



O. GENE DISHNER  
DIRECTOR

CHARLES M. HALE, JR.  
CHIEF DEPUTY DIRECTOR

BENNY R. WAMPLER  
DEPUTY DIRECTOR



DIVISIONS  
ENERGY  
GAS AND OIL  
MINED LAND RECLAMATION  
MINERAL MINING  
MINERAL RESOURCES  
MINES  
ADMINISTRATION

# COMMONWEALTH of VIRGINIA

*Department of Mines, Minerals and Energy*

Division of Gas and Oil

P.O. Box 1416

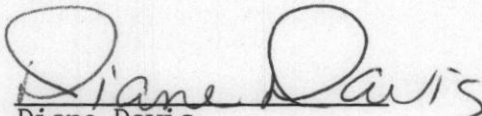
Abingdon, Virginia 24212-1416

Phone: (540) 676-5423

Fax: (540) 676-5459

B. R. Wilson, Division Director

CERTIFIED NUMBER 7099 3400 0000 9762 8422 WAS MAILED FROM DGO  
ON MAY 16, 2000 AND SIGNED FOR BY A MS. CHRISTY DAY ON BEHALF OF  
JAMES HENDERSON ON MAY 17, 2000. THE RETURN RECEIPT CARD HAS NOT  
BEEN RECEIVED FROM THE POST OFFICE. THIS INFORMATION WAS PROVIDED  
BY THE TAZEWELL COUNTY POST OFFICE. A REQUEST FOR REPLACEMENT OF  
THE CARD HAS BEEN MADE ON THIS DATE.

  
Diane Davis  
7/26/00